

REMARKS

This response is submitted in reply to the Office Action dated February 15, 2005. Claims 1-77 are pending in the patent application. None of the claims have been amended.

Claims 1-77 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action states that the claims taken as a whole recite an "undue multiplicity" of claims under MPEP § 2173.05(n). The Office Action further states that the claims in the above-identified patent application should be limited to a maximum of twenty-five claims. Applicant respectfully disagrees with this rejection.

Section 2173.05(n) of the MPEP states the following:

Where, in view of the nature and scope of applicant's invention, applicant presents an unreasonable number of claims which ** are repetitious and multiplied, the net result of which is to confuse rather than to clarify, a rejection on undue multiplicity based on 35 U.S.C. 112, second paragraph, may be appropriate. As noted by the court in *In re Chandler*, 319 F.2d 211, 225, 138 USPQ 138, 148 (CCPA 1963), "applicants should be allowed reasonable latitude in stating their claims in regard to number and phraseology employed. The right of applicants to freedom of choice in selecting phraseology which truly points out and defines their inventions should not be abridged. Such latitude, however, should not be extended to sanction that degree of repetition and multiplicity which beclouds definition in a maze of confusion. The rule of reason should be practiced and applied on the basis of the relevant facts and circumstances in each individual case." See also *In re Flint*, 411 F.2d 1353, 1357, 162 USPQ 228, 231 (CCPA 1969). Undue multiplicity rejections based on 35 U.S.C. 112, second paragraph, should be applied judiciously and should be rare.

Applicant respectfully submits that the independent claims 1, 14, 27, 40 and 74 are directed to different scopes of subject matter where the different scopes are clearly defined by each of the claims. In *In re Flint*, the patent application at issue included forty-two claims. These claims were rejected as being unduly multiplied under §112 similar to the above-identified application. The claims *In re Flint* included claims that had different scopes of subject matter but had the same "combinational relationships with the structure of the base claims." The Board agreed with the Examiner and maintained the rejection of claims 1-42. However, the Court of Customs and Patent Appeals reversed the boards decision and found that the differing scopes of

the claims was enough to show differences between the claims and that there is no difficulty in understanding the scope or protection presented by the claims.

Similar to the claims in *In re Flint*, the claims in the above-identified patent application generally have the same combinational relationships of elements but are directed to different scopes of subject matter. For example, claim 1 is directed to an information processing apparatus. Claim 14 is directed to an information processing method for an information processing apparatus. Claim 27 is directed to a storing medium which stores a computer readable program for an information processing apparatus. Claim 40 is directed to a service providing system which includes certain different elements than Claims 1, 14 and 27. Additionally, Claim 74 is also directed to a service providing system which is different from Claim 40, and has certain different elements from independent claims 1, 14 and 27. Accordingly, each of the independent claims are directed to different scopes of subject matter and are therefore not repetitious or unduly multiplied in the application. Applicant respectfully submits that based on *In re Flint*, the claims are clear and understandable and directed to different scopes of subject matter. Furthermore, Applicant respectfully submits that the Examiner would not be confused or otherwise burdened in any way by examining claims 1-77 in the above-identified patent application.

For at least these reasons, Applicant respectfully submits that claims 1-77 should remain in the above-identified patent application and that the multiplicity rejection be withdrawn.

The Office Action also states that it appears that there are multiplicity of inventions in the above-identified patent application. Therefore, the Patent Office is requesting that the claims read on a single invention. Applicant respectfully disagrees with the Patent Office for the following reasons.

Under § 35 U.S.C. 121, "if two or more independent and distinct inventions are claimed in one application, the director may require the application be restricted to one of the inventions." As stated in MPEP § 803:

[a]n application may properly be required to be restricted to two or more claimed inventions only if they are able to support separate patents and then they are either independent or distinct. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to independent or distinct inventions.

Applicant respectfully submits that although the claims are directed to different scopes of subject matter, certain of the elements in each of the claims are the same. Therefore, Applicant respectfully submits that Claims 1-77 in the above-identified application would require a search that would not present an undue burden to the Examiner. Applicant therefore respectfully submits that Claims 1-77 should remain in the above-identified application.

In light of the above, Applicant respectfully submits that Claims 1-77 are proper and in condition for examination.

No fees are due in this case. If any other fees are due to connection with this application as a whole, the Patent Office is authorized to deduct the fees from deposit account no. 02-1818. If such a withdrawal is made, please indicate the attorney docket no. (112857-304) on the account statement.

Respectfully submitted,

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